

**VIEWMASTER CONSTRUCTION CORPORATION, PETITIONER, VS.
HON. REYNALDO Y. MAULIT IN HIS OFFICIAL CAPACITY AS
ADMINISTRATOR OF THE LAND REGISTRATION AUTHORITY; AND
EDGARDO CASTRO, AC...**

G.R. No. 136283. February 29, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

A notice of lis pendens may be registered when an action or a proceeding directly affects the title to the land or the buildings thereon; or the possession, the use or the occupation thereof. Hence, the registration of such notice should be allowed if the litigation involves the enforcement of an agreement for the co-development of a parcel of land.

Statement of the Case

Before us is a Petition for Review on Certiorari[1] assailing the February 27, 1998 Decision[2] of the Court of Appeals (CA)[3] in CA- GR SP No. 39649 and its November 12, 1998 Resolution[4] denying reconsideration. The assailed Decision affirmed the Resolution[5] of the Land Registration Authority (LRA) in Consulta No. 2381, which ruled as follows:

"PREMISES CONSIDERED, this Authority is of the considered view and so holds that the Notice of Lis Pendens subject of this consulta is not registrable."[6]

The Facts

The undisputed facts were summarized by the Court of Appeals as follows:

"The subject property is known as the Las Piñas property registered in the name of Peltan Development Inc. (now State Properties Corporation) covered by Transfer Certificate of Title No. (S-17992) 12473-A situated in Barrio Tindig na Manga, Las Piñas, Rizal.

"The Chiong/Roxas family collectively owns and controls State Investment Trust, Inc. (formerly State Investment House, Inc.) and is the major shareholder of the following corporations, namely: State Land Investment Corporation, Philippine Development and Industrial Corporation and Stronghold Realty Development.

"Sometime in 1995, the said family decided to give control and ownership over the said corporations to only one member of the family, through the process of bidding among the family members/stockholders of the said companies. It was agreed that the bidder who acquires 51% or more of the said companies shall be deemed the winner.

"Defendant Allen Roxas, one of the stockholders of State Investment Trust, Inc. applied for a loan with First Metro Investment, Inc. (First Metro for brevity) in the amount of P36,500,000.00 in order to participate in the

bidding.

"First Metro granted Allen Roxas' loan application without collateral provided, however, that he procure a guarantor/surety/solidary co-debtor to secure the payment of the said loan.

"Petitioner Viewmaster agreed to act as guarantor for the aforementioned loan in consideration for its participation in a Joint Venture Project to co-develop the real estate assets of State Investment Trust, Inc.

"After a series of negotiations, petitioner Viewmaster and defendant Allen Roxas agreed that should the latter prevail and win in the bidding, he shall sell to petitioner fifty percent (50%) of the total eventual acquisitions of shares of stock in the State Investment Trust, Inc., at a purchase price equivalent to the successful bid price per share plus an additional ten percent (10%) per share.

"As a result of the loans granted by First Metro in consideration of and upon the guaranty of petitioner Viewmaster, defendant Allen Roxas, eventually gained control and ownership of State Investment Trust, Inc.

"However, notwithstanding the lapse of two (2) years since defendant Allen Roxas became the controlling stockholder of State Investment Trust, Inc., he failed to take the necessary action to implement the Joint Venture Project with petitioner Viewmaster to co-develop the subject properties.

"Thus, petitioner's counsel wrote defendant Allen Roxas, reiterating petitioner's demand to comply with the agreement to co-develop the Las Piñas Property and to set in operation all the necessary steps towards the realization of the said project.

"On September 8, 1995, petitioner Viewmaster filed a Complaint for Specific Performance, Enforcement of Implied Trust and Damages against State Investment Trust, Inc. Northeast Land Development, Inc., State Properties Corporation (formerly Peltan Development, Inc.) and defendant Allen Roxas, in his capacity as Vice-Chairman of State Investment Trust, Inc., and Chairman of Northeast Land Development, Inc., State Properties Corporation, which was docketed as Civil Case No.65277.

"On September 11,1995, petitioner Viewmaster filed a Notice of Lis Pendens with the Register of Deeds of Quezon City and Las Piñas for the annotation of a Notice of Lis Pendens on Transfer Certificate of Title No. (S-17992) 12473- A, registered in the name of Peltan Development, Inc. (now State Properties Corporation).

"In a letter dated September 15, 1995, the respondent Register of Deeds of Las Piñas denied the request for annotation of the Notice of Lis Pendens on the following grounds:

- the request for annotation and the complaint [do] not contain an adequate description of the subject property;
- petitioner's action only has an incidental effect on the property in question.

"On September 20, 1995, petitioner filed an appeal to the respondent Land Registration Authority, which was docketed as Consulta No. 2381.

"On December 14, 1995, the Respondent Land Registration Authority issued the assailed Resolution holding that petitioner's 'Notice of Lis Pendens' was not registrable."[7]

Ruling of the Court of Appeals

In affirming the ruling of the LRA, the Court of Appeals held that petitioner failed to adequately describe the subject property in the Complaint and in the application for the registration of a notice of lis pendens. The CA noted that while Transfer Certificate of Title No. (S-17992) 12473-A indicated six parcels of land, petitioner's application mentioned only one parcel.

Moreover, the CA also ruled that a notice of lis pendens may be registered only when an action directly affects the title to or possession of the real property. In the present case, the proceedings instituted by petitioner affected the

title or possession incidentally only, not directly.

Hence, this Petition.[8]

Issues

Petitioner submits for the consideration of the Court the following issues:

"I

Whether or not the petitioner failed to adequately describe the subject property in its complaint and in the notice of lis pendens.

II

Whether or not the Las Piñas property is directly involved in Civil Case No. 65277."[9]

The Court's Ruling

The Petition is meritorious.

First Issue:

Description of Property

Petitioner contends that the absence of the property's technical description in either the notice of lis pendens or the Complaint is not a sufficient ground for rejecting its application, because a copy of TCT No. (S-17992) 12473-A specifically describing the property was attached to and made an integral part of both documents.

On the other hand, respondents argue that petitioner failed to provide an accurate description of the Las Piñas property, which was merely referred to as a "parcel of land."

The notice of lis pendens described the property as follows:

"A parcel of land situated in the Barrio of Tindig na Manga, Municipality of Las Piñas, Province of Rizal x x x containing an area of Seven Hundred Eighty Six Thousand One Hundred Sixty Seven (786,167) square meters, more or less."

By itself, the above does not adequately describe the subject property, pursuant to Section 14 of Rule 13 of the Rules of Court and Section 76 of Presidential Decree (PD) No.1529. It does not distinguish the said property from other properties similarly located in the Barrio of Tindig na Manga, Municipality of Las Piñas, Province of Rizal. Indeed, by the above description alone, it would be impossible to identify the property.

In the paragraph directly preceding the description quoted above, however, petitioner specifically stated that the property referred to in the notice of lis pendens was the same parcel of land covered by TCT No. (S-17992) 12473-A:

"Please be notified that on 08 September 1995, the [p]laintiff in the above-entitled case filed an action against the above-named [d]efendants for specific performance, enforcement of an implied trust and damages, now pending in the Regional Trial Court of Pasig, Branch 166, which action involves a parcel of land covered by Transfer Certificate Title (TCT) No. (S-17992) 12473-A, registered in the name of Peltan Development Incorporated which changed its corporate name to State Properties Corporation, one of the [d]efendants in the aforesaid case. The said parcel of land is more particularly described as follows:

'A parcel of land situated in the Barrio of Tindig na Manga, Municipality of Las Piñas, Province of Rizal x x x containing an area of Seven Hundred Eighty Six Thousand One Hundred Sixty Seven (786,167) square meters, more or less.'

"Request is therefore made [for] your good office to record this notice of pendency of the aforementioned action in TCT No. (S-17992) 12473-A for all legal purposes." [10]

As earlier noted, a copy of the TCT was attached to and made an integral part of both documents. Consequently, the notice of lis pendens submitted for registration, taken as a whole, leaves no doubt as to the identity of the property, the technical description of which appears on the attached TCT. We stress that the main purpose of the requirement that the notice should contain a technical description of the property is to ensure that the same can be distinguished and readily identified. In this case, we agree with petitioner that there was substantial compliance with this requirement.

Second Issue:

Property Directly Involved

In upholding the LRA, the Court of Appeals held that "the doctrine of lis pendens has no application to a proceeding in which the only object sought is the recovery of [a] money judgment, though the title [to] or right or possession [of] a property may be incidentally affected. It is thus essential that the property be directly affected where the relief sought in the action or suit includes the recovery of possession, or the enforcement [thereof], or an adjudication between the conflicting claims of title, possession or right of possession to specific property, or requiring its transfer or sale." [11]

On the other hand, petitioner contends that the civil case subject of the notice of lis pendens directly involved the land in question, because it prayed for the enforcement of a prior agreement between herein petitioner and Defendant Allen Roxas to co-develop the latter's property.

We agree with the petitioner. A notice of lis pendens, which literally means "pending suit," may involve actions that deal not only with the title or possession of a property, but even with the use or occupation thereof. Thus, Section 76 of PD 1529 reads:

"Sec. 76. Notice of lis pendens. -- No action to recover possession of real estate, or to quiet title thereto, or to remove clouds upon the title thereof, or for partition, or other proceedings of any kind in court directly affecting the title to land or the use or occupation thereof or the buildings thereon, and no judgment, and no proceeding to vacate or reverse any judgment, shall have any effect upon registered land as against persons other than the parties thereto, unless a memorandum or notice stating the institution of such action or proceeding and the court wherein the same is pending, as well as the date of the institution thereof, together with a reference to the number of the certificate of title, and an adequate description of the land affected and the registered owner thereof, shall have been filed and registered."

In *Magdalena Homeowners Association, Inc. v. Court of Appeals*, [12] the Court did not confine the availability of lis pendens to cases involving the title to or possession of real property. Thus, it held:

"According to Section 24, Rule 14 [13] of the Rules of Court and Section 76 of Presidential Decree No. 1529, a notice of lis pendens is proper in the following cases, viz.:

a)

An action to recover possession of real estate;

b)

An action to quiet title thereto;

c)

An action to remove clouds thereon;

d)

An action for partition; and

e)

Any other proceedings of any kind in Court directly affecting the title to the land or the use or occupation hereof or the buildings thereon."

In *Villanueva v. Court of Appeals*,^[14] this Court further declared that the rule of *lis pendens* applied to suits brought "to establish an equitable estate, interest, or right in specific real property or to enforce any lien, charge, or encumbrance against it x x x." Thus, this Court observed that the said notice pertained to the following:

"x x x all suits or actions which directly affect real property and not only those which involve the question of title, but also those which are brought to establish an equitable estate, interest, or right, in specific real property or to enforce any lien, charge, or encumbrance against it, there being in some cases a *lis pendens*, although at the commencement of the suit there is no present vested interest, claim, or lien in or on the property which it seeks to charge. It has also been held to apply in the case of a proceeding to declare an absolute deed of mortgage, or to redeem from a foreclosure sale, or to establish a trust, or to suits for the settlement and adjustment of partnership interests."

In the present case, petitioner's Complaint docketed as Civil Case No. 65277 clearly warrants the registration of a notice of *lis pendens*. The Complaint prayed for the following reliefs:

"1.

Render judgment ordering the Defendant Allen Roxas to sell fifty percent (50%) of his shareholdings in Defendant State Investment to Plaintiff at the price equivalent to the successful bid price per share plus an additional ten percent (10%) per share and directing Defendants to co-develop with the Plaintiff the subject real properties;

2.

Render judgment ordering the Defendant Allen Roxas to:

a.

Pay the Plaintiff the amount of at least Twenty Million Pesos (P20,000,000.00) and/or such other amounts as may be proven during the course of the trial, by way of actual damages;

b.

Pay the Plaintiff the amount of at least One Million Pesos (P1,000,000.00), by way of moral damages;

c.

Pay the Plaintiff the amount of at least One Million Pesos (P1,000,000.00), by way of exemplary damages;

d.

Pay the Plaintiff the amount of Two Hundred Fifty Thousand Pesos (P250,000.00) by way of attorney's fees; and

e.

Pay expenses of litigation and costs of suit."^[15]

Undeniably, the prayer that Defendant Allen Roxas be ordered to sell 50 percent of his shareholdings in State Investment does not directly involve title to the property and is therefore not a proper subject of a notice of lis pendens. Neither do the various amounts of damages prayed for justify such annotation.

We disagree, however, with the Court of Appeals and the respondents that the prayer for the co-development of the land was merely incidental to the sale of shares of defendant company.

The Complaint shows that the loan obtained by Allen Roxas (one of the defendants in the civil case) from First Metro was guaranteed by petitioner for two distinct considerations: (a) to enable it to purchase 50 percent of the stocks that the said defendant may acquire in State Investment and (b) to co-develop with the defendants the Quezon City and the Las Piñas properties of the corporation. In other words, the co-development of the said properties is a separate undertaking that did not arise from petitioner's acquisition of the defendant's shares in the corporation. To repeat, the co-development is not merely auxiliary or incidental to the purchase of the shares; it is a distinct consideration for Viewmaster's guaranty.[16]

Hence, by virtue of the alleged agreement with Allen Roxas, petitioner has a direct -- not merely incidental -- interest in the Las Piñas property. Contrary to respondents' contention,[17] the action involves not only the collection of a money judgment, but also the enforcement of petitioner's right to co-develop and use the property.

The Court must stress that the purpose of lis pendens is (1) to protect the rights of the party causing the registration thereof[18] and (2) to advise third persons who purchase or contract on the subject property that they do so at their peril and subject to the result of the pending litigation.[19] One who deals with property subject of a notice of lis pendens cannot acquire better rights than those of his predecessors-in-interest.[20] In *Tanchoco v. Aquino*,[21] the Court held:

"x x x The doctrine of lis pendens is founded upon reason of public policy and necessity, the purpose of which is to keep the subject matter of the litigation within the power of the court until the judgment or decree shall have been entered; otherwise, by successive alienations pending the litigation, its judgment or decree shall be rendered abortive and impossible of execution. Purchasers pendente lite of the property subject of the litigation after the notice of lis pendens is inscribed in the Office of the Register of Deeds are bound by the judgment against their predecessors. x x x."

Without a notice of lis pendens, a third party who acquires the property after relying only on the Certificate of Title would be deemed a purchaser in good faith. Against such third party, the supposed rights of petitioner cannot be enforced, because the former is not bound by the property owner's undertakings not annotated in the TCT.[22]

Likewise, there exists the possibility that the res of the civil case would leave the control of the court and render ineffectual a judgment therein. Indeed, according to petitioner, it was not even informed when Allen Roxas exchanged the Quezon City property for shares of stock in Northeast Land Development, Inc.[23] Hence, it maintains that there is a clear risk that the same thing would be done with the Las Piñas property.

In this light, the CA ruling left unprotected petitioner's claim of co-development over the Las Piñas property. Hence, until the conflicting rights and interests are threshed out in the civil case pending before the RTC, it will be in the best interest of the parties and the public at large that a notice of the suit be given to the whole world.

The Court is not here saying that petitioner is entitled to the reliefs prayed for in its Complaint pending in the RTC. Verily, there is no requirement that the right to or the interest in the property subject of a lis pendens be proven by the applicant. The Rule merely requires that an affirmative relief be claimed.[24] A notation of lis pendens neither affects the merits of a case nor creates a right or a lien.[25] It merely protects the applicant's rights, which will be determined during the trial.

WHEREFORE, the Petition is hereby GRANTED and the assailed Decision of the Court of Appeals REVERSED and SET ASIDE. The Las Piñas Register of Deeds is directed to cause the annotation of lis pendens in TCT No. (S-17992) 12473-A. No costs.

SO ORDERED.

Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

Melo, J., (Chairman), dissents. Peltan or State Properties not offering to have been unpleaded.

[1] Rollo, pp. 11-36.

[2] Rollo, pp. 41- 47.

[3] Twelfth Division, composed of J. Consuelo Ynares-Santiago, chairman, ponente, and currently a member of this Court; JJ Bernardo Ll. Salas and Demetrio G. Demetria, members [both concurring]

[4] Rollo, pp. 50-51.

[5] Written by Administrator Reynaldo Y. Maulit.

[6] Rollo, p. 91.

[7] Assailed Decision, pp. 1-3; rollo, pp. 41- 43.

[8] The case was deemed submitted for resolution on November 15, 1999, upon receipt by this Court of petitioner's Memorandum, which was signed by Attys. Erlinda T. Agus and Karen Camacho Paredes of Puno & Puno. Respondents' Memorandum, which was signed by Assistant Solicitor General Mariano M. Martinez and Associate Solicitor Olivia V. Non, was filed earlier on October 13, 1999.

[9] Memorandum for Petitioner, p. 15; rollo, p. 223.

[10] Memorandum for Petitioner, pp. 17-18; rollo, pp. 225-226.

[11] CA Decision, p. 6; rollo, p. 46.

[12] 184 SCRA 325, 329-330, April 17, 1990 per Narvasa, CJ.

[13] Section 14, Rule 13 of the 1997 Rules of Court.

[14] 281 SCRA 298, 308-309, November 5, 1997, per Panganiban, J., quoting from Francisco, The Revised Rules of Court in the Philippines, Vol. I, 1973 ed., p. 831.

[15] Complaint, pp. 13-14; rollo, pp. 66-67. Italics supplied.

[16] Complaint, pp. 5, 8; rollo, pp. 57, 60.

[17] Respondents' Memorandum, p. 20; rollo, p. 199.

[18] *Nataño v. Esteban*, 18 SCRA 481, October 28, 1966.

[19] *Marasigan v. IAC*, 152 SCRA 253, July 23, 1987; *Bisaya Land Transportation v. Cuenco*, 23 SCRA 102, April 22, 1968.

[20] *Yu v. CA*, 251 SCRA 509, December 26, 1995; *Tanchoco v. Aquino*, 154 SCRA 1, September 15, 1987.

[21] 154 SCRA 1, 16, September 15, 1987, per Paras, J. See also *Tan v. Lantin*, 142 SCRA 423, July 7, 1986.

[22] Pino v. CA, 198 SCRA 434, June 19, 1991; Dino v. CA, 213 SCRA 422, September 2, 1992.

[23] Complaint, p. 4; rollo, p. 56.

[24] Villanueva v. CA, supra.

[25] Magdalena Homeowners Association v. CA, supra.

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